

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 131**  
FINAL READING

Introduced by Cunningham, 40; Connealy, 16; Kremer, 34

Read first time January 6, 2005

Committee: Agriculture

A BILL

1 FOR AN ACT relating to the Nebraska Pure Food Act; to amend section  
2 81-2,245.01, Reissue Revised Statutes of Nebraska, and  
3 sections 81-2,239 and 81-2,240, Revised Statutes  
4 Supplement, 2004; to define and redefine terms; to  
5 harmonize provisions; and to repeal the original  
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1                   Section 1.           Section 81-2,239, Revised Statutes  
2 Supplement, 2004, is amended to read:

3                   81-2,239. Sections 81-2,239 to 81-2,292 and section 3 of  
4 this act and the provisions of the Food Code, the Food Salvage  
5 Code, and the Current Good Manufacturing Practice In Manufacturing,  
6 Packing, or Holding Human Food adopted by reference in sections  
7 81-2,257.01 to 81-2,259, shall be known and may be cited as the  
8 Nebraska Pure Food Act.

9                   Sec. 2. Section 81-2,240, Revised Statutes Supplement,  
10 2004, is amended to read:

11                   81-2,240. For purposes of the Nebraska Pure Food Act,  
12 unless the context otherwise requires, the definitions found in  
13 sections 81-2,241 to 81-2,254.01 and section 3 of this act shall be  
14 used. In addition, the definitions found in the codes and practice  
15 adopted by reference in sections 81-2,257.01 to 81-2,259~~7~~ shall be  
16 used.

17                   Sec. 3. Commercial food establishment means an operation  
18 with a permanent sales location and such location has more than one  
19 hundred cubic feet of area containing food.

20                   Sec. 4. Section 81-2,245.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                   81-2,245.01. Food establishment shall mean an operation  
23 that stores, prepares, packages, serves, sells, vends, or otherwise  
24 provides food for human consumption. The term does not include:

25                   (1) An establishment or vending machine operation that  
26 offers only prepackaged soft drinks, carbonated or noncarbonated; ~~7~~  
27 ~~that do not contain a primary dairy product or dairy ingredient~~  
28 ~~base or that contain less than fifteen percent natural fruit or~~

1 vegetable juice canned or bottled fruit and vegetable juices;  
2 prepackaged ice; candy; chewing gum; potato or corn chips;  
3 pretzels; cheese puffs and curls; crackers; popped popcorn; nuts  
4 and edible seeds; and cookies, cakes, pies, and other pastries,  
5 that are not potentially hazardous foods;

6 (2) A produce stand that only offers whole, uncut fresh  
7 fruits and vegetables;

8 (3) A food processing plant;

9 (4) A salvage operation;

10 (5) A private home where food is prepared or served for  
11 personal use, a small day care in the home, or a hunting lodge,  
12 guest ranch, or other operation where no more than ten paying  
13 guests eat meals in the home;

14 (6) A private home or other area where food that is not  
15 potentially hazardous food is prepared: (a) For sale or service at  
16 a religious, charitable, or fraternal organization's bake sale or  
17 similar function; or (b) for sale directly to the consumer at a  
18 farmers market if the consumer is informed by a clearly visible  
19 placard at the sale location that the food was prepared in a  
20 kitchen that is not subject to regulation and inspection by the  
21 regulatory authority;

22 (7) A private home or other area where food is prepared  
23 for distribution at a fundraising event for a charitable purpose if  
24 the consumer is informed by a clearly visible placard at the  
25 serving location that the food was prepared in a kitchen that is  
26 not subject to regulation and inspection by the regulatory  
27 authority. This subdivision does not apply to a caterer or other  
28 establishment providing food for the event if the caterer or

1 establishment receives compensation for providing the food;

2           (8) The location where food prepared by a caterer is  
3 served so long as the caterer only minimally handles the food at  
4 the serving location;

5           ~~(8)~~ (9) Educational institutions, health care facilities,  
6 nursing homes, and governmental organizations which are inspected  
7 by a state agency or a political subdivision other than the  
8 regulatory authority for sanitation in the food preparation areas;  
9 ~~and~~

10           ~~(9)~~ (10) A pharmacy as defined in section 71-425 if the  
11 pharmacy only sells prepackaged pharmaceutical, medicinal, or  
12 health supplement foods that are not potentially hazardous or foods  
13 described in subdivision (1) of this section; and

14           (11) An establishment which is not a commercial food  
15 establishment and which sells only commercially packaged foods that  
16 are not potentially hazardous foods.

17           Sec. 5. Original section 81-2,245.01, Reissue Revised  
18 Statutes of Nebraska, and sections 81-2,239 and 81-2,240, Revised  
19 Statutes Supplement, 2004, are repealed.